IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1275 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/04/2004 in WP NO : 6585 OF 2004 on the file of the High Court.)

Between:

1. The Senior Divisional Manager, Life Insurance Corporation of India,
Hyderabad Division, Opp:Secretariat, Saifabad, Hyderabad.
2 The Branch Manager, Life Insurance Corporation of India, Jadcherla Branch & Mandal, Mahabubnagar District.

..... APPELLANTS

AND

1 Gulam Dastagir, s/o Gulam Hyder,
H.No.20-1-350, Kokakitatti, Hussaini Alam, Hyderabad.

2 Shaheda Begum, d/o Gulam Hyder,
H.No.20-1-350, Kokakitatti, Hussaini Alam,
Hyderabad.
3 Fahmeeda Begum, d/o Gulam Hyder,
H.No.20-1-350, Kokitatti, Hussaini Alam, Hyderabad.

.....RESPONDENTS

Counsel for the Appellants : MR.E.S.KUMAR

Counsel for the Respondents : MR.M.A.ASHFAQ MOHIUDDIN.

The Court made the following :

ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

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1. Challenge is to the impugned order passed by the learned single Judge on the very first day when the writ petition came up for consideration before him.

2. On 02.04.2004 respondents herein filed writ petition, which came up before the Court on 07th April, 2004 after advance copy was served upon Standing Counsel for appellant – Corporation. The respondents herein had sought direction to declare the action of the Corporation in not settling their claim pursuant to the death of Late Smt. Mahamuda Begum, as arbitrary, and sought direction against the Corporation to pay the insured amount with accident benefits.

3. On the very first day when the case was taken up by the learned single Judge on record, without allowing any opportunity to the appellants to file counter-affidavit, writ petition was disposed of though by a very innocuous order, by which the appellants have now felt aggrieved. Direction issued by the learned single Judge to the Corporation is to settle the claim of the writ petitioners in consequence of death of Mahamuda Begum in settling the L.I.C. Policy No. 646118602 within a period of three months from the date of receipt of a copy of the order, as per the terms and conditions of the policy. No doubt, learned single Judge duly considered the oral stand taken by the learned Standing Counsel for the Corporation that matter was under investigation and after completion of investigation, claim of the petitioners would be settled by the Corporation. But without awaiting for such decision on the part of the Corporation or without taking its version on record, learned single Judge disposed of the writ petition.

4. Appellants stand now is that the investigation is still incomplete and no direction could have been issued before completion of investigation since settlement of claim in Policy No.646118602 is subject to result of investigation. One of the grounds urged before us is that considering the statutory provisions of Insurance Act, which contemplates suing for relief in the principal civil court of original jurisdiction, learned single Judge ought not to have entertained the writ petition and exercised extraordinary jurisdiction.

5. We have heard counsel for the parties. Ordinarily when matters come up before the court, may be after duly serving advance copy to the opposite party, the Court ought not and could not dispose of finally the matter, whether it is a petition or a case coming before it, without taking on record the version of the opposite party. Maybe initially the Court may incline to pass interim order, but the question still that would remain to be decided is as to whether even a direction as has been issued by the learned single Judge could or could not be issued, though it is the case of the Corporation that until investigation is completed, the respondents claim cannot be settled at all. In such an eventuality, in such like matters, where order, as has been passed by the learned single Judge, has been passed, there will be an obligation on the part of the Corporation to settle such cases which otherwise would not be liable to be settled. Consequently, we set aside the impugned order with request that writ petition will be decided after taking the stand of the appellant – Corporation on record. Learned counsel for the appellants states that he will file counter-affidavit within one week. Writ petition be posted before the learned single Judge after two weeks.

6. In the result, writ appeal is allowed. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 19.08.2004.

VRK.

To

1. The Branch Manager, Life Insurance Corporation of India, Jedcherla Branch & Mandal, Mahaboobnagar District.

2. The Senior Divisional Manager, Life Insurance Corporation of India, Hyderabad Division, Opp: Secretariat, Saifabad, Hyderabad.

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1275 OF 2004.

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(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 19.08.2004.

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